

Remarks

Claims 1-8 & 10-20 are at issue. Claims 1, 3-8 & 10-13 stand rejected under 35 USC 103(a) as being unpatentable over Gendala (US 66131779) in view of Magee (US 6394329). Claims 2 & 14-20 stand rejected under 35 USC 103(a) as being unpatentable over Gendala in view of Magee and further in view of Blanchester (US 6880714).

Interview

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General Discussion of Prior Art

Gendala shows a device for holding a water bottle that includes a curved fork (18, 20) having locating lugs 28, 30. Gendala shows a U shaped clip with a hinge connected to the curved fork. Magee shows a device with an upright section and a lateral section extending out from the upright section. The patent office has decided to use rectangular shape of Magee the hinge between the two sections of Gendala and suggests the accordion 158 of Magee is a hinge line. It ignores that the Magee is clear that his two sections do not fold, it ignores that Gendala uses a fork and cannot fold flat. This is clearly illegal hindsight to recreate the applicant's invention. "Its logic is the fallacious logic which leads to the conclusion that since each of the words in Lincoln's 'Gettysburg Address' were individually old and well known at the time he used them, it would have been obvious for anyone of ordinary skill with a dictionary before him, to have written it."

In re Dailey and Eilers, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Claims

Independent claims 1, 7 & 15 as amended make it clear that the bottle carrier folds flat so that it can fit in a user's pocket. This is not shown in either Gendala or Magee of the combination. Claims 1, 7 & 15 are allowable.

Claims 2, 7, 10, 13, 14, 16, & 18-19 are allowable as being dependent upon an allowable base claim.

Claims 3, 11 & 20 require a carrier adapter. The Patent Office misstates the law when it states “the broadest reasonable common meaning of the term.” The law is clear: the standard is the broadest reasonable interpretation in light of the specification that one skilled in the art would give the term.

The Patent and Trademark Office (“PTO”) determines the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. Of Sci. Tech. Ctr.*, 367 F.3d 1359 (Fed. Cir. 2004).

Suggesting that the user’s fingers are a “carrier adapter” does not meet the laugh test. Claims 3, 11 & 20 are clearly allowable over the prior art.

Claim 5 requires the opening have a fat end and narrow end and the fat end is near the hinge. Magee shows a single hinge and neither the fat end nor the narrow end are closer to the hinge. Gendala does not have a fat and narrow end of an opening. Claim 5 is allowable.

Claims 6 & 17 require that the two covers snap fit together. The patent office points to Fig. 7, column 4, lines 10-15 of Gendala. However, a close reading of this section makes it clear that the two sides do not snap fit together. This section explains how the boss 26 limits pivotal movement, but it does not cause it snap fit together. Claims 6 & 17 are allowable.

Prompt reconsideration and allowance are respectfully requested.

Respectfully submitted,
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